PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Department of Social and Health Services, Health and Recovery Services Administration

☒ **Preproposal Statement of Inquiry was filed as WSR 05-17-140; or**	☒ **Original Notice**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**	☐ **Supplemental Notice to WSR**
☐ **Proposal is exempt under RCW 34.05.310(4).**	☐ **Continuance of WSR**

Title of rule and other identifying information: (Describe Subject)

Sections in Title 388 WAC regarding covered and noncovered services – Part 1 of 3

See "Attachment" for a list of the affected WAC sections.

Hearing location(s):

Blake Office Park East – Rose Room
4500 – 10th Ave. SE
Lacey, Washington 98503
(One block north of the intersection of Pacific Ave. SE and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling 360-664-6097)

Date: **November 7, 2006** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850, Olympia WA, 98504
Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
E-mail: fernaax@dshs.wa.gov Fax: (360) 664-6185
by **5:00 p.m. on November 7, 2006**

Date of intended adoption: Not earlier than November 8, 2006 (Note: This is **NOT** the **effective** date)

Assistance for persons with disabilities: Contact Stephanie Schiller, DSHS Rules Consultant by November 3, 2006
TTY (360) 664-6178 or (360) 664-6097 or
by e-mail at schilse@dshs.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See "Attachment" for purpose and explanation of changes.

Reasons supporting proposal: It will make HRSA's rules regarding covered and noncovered medical services clearer and easier to understand for our clients and medical providers.

Statutory authority for adoption:
RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700

Statute being implemented:
RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE 9/15/06

NAME (type or print) Andy Fernando

SIGNATURE

TITLE Manager, Rules and Policies Assistance Unit

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 19 2006

TIME 4:02 AM PM
WSR 06-19-098

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization) Department of Social and Health Services

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Kevin Sullivan	626-8th Ave, Olympia, WA 98504-5504	(360) 725-1344
Implementation....	Gail Kreiger	" " "	(360) 725-1681
Enforcement.....	"	" " "	(360) 725-1681

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( )
fax ( )
e-mail

☒ No. Explain why no statement was prepared.

This amendment does not create more than minor costs to small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name: Kevin Sullivan, HRSA Rules Coordinator
Address: P.O. Box 45504, Olympia, WA 98504-4405
Phone: (360) 725-1344 Fax: (360) 586-9727
E-mail: sullikm@dshs.wa.gov TYY/TDD: 1-800-848-5429

☐ No: Please explain:

Attachment to CR-102 (Part 1 of 3)
For Preproposal Statement of Inquiry filed as WSR 05-17-140

WAC Sections Proposed in Part 1:

WAC 388-501-0050, Healthcare – General Coverage (amended)
WAC 388-501-0060, Healthcare Coverage – Scope of Covered Categories of Service (new)
WAC 388-501-0065, Healthcare Coverage – Description of Covered Categories of Service (new)
WAC 388-501-0070, Healthcare Coverage – Noncovered Services (new)
WAC 388-501-0160, Exception to Rule – Request for a Noncovered Healthcare Service (amended)
WAC 388-501-0169, Healthcare Coverage – Limitation Extension (new)
WAC 388-531-0100, Scope of Coverage for Physician-Related Services – General and Administrative (amended)

Purpose of Rule Amendment

The purpose of the proposal is to:

- Improve the quality of care received by DSHS clients by using a consistent, evidence-based approach to making benefit coverage decisions.
- Make HRSA benefit coverage rules clearer, more transparent, and consistent.
- Establish a clear, transparent process by which HRSA determines what services are included under its benefit coverage.
- Maximize program resources through prudent use of cost-effective practices.

Changes to Rule in Parts 1, 2, and 3

In this proposal, the department has:

- Replaced "Medical Assistance Administration" and "MAA" with "the department" or "HRSA."
- Substituted WAC 388-501-0160 cross reference in place of WAC 388-501-0165 where noncovered services are addressed.
- Replaced all references to chapter 388-529 WAC with new WAC 388-501-0060 and WAC 388-501-0065.
- Added reference to new WAC 388-501-0169 in rules where limitations on covered services are addressed.
- Repealed chapter 388-529 WAC which is being replaced with WAC 388-501-0060 and WAC 388-501-0065.
- Repealed WAC 388-501-0300 because it was incorporated into WAC 388-501-0050 and WAC 388-501-0070.
- Removed gender reassignment surgery from covered service status.
- More clearly defined what is covered and not covered in the way of cosmetic and reconstructive surgery, treatment, and procedures in WAC 388-531-0100 and new WAC 388-501-0070.
- Added more detail to WAC 388-501-0160 regarding the criteria and steps in the exception to rule (ETR) process.
- In new WAC 388-501-0065, added brief descriptions of services available under each category of service listed in the table in new WAC 388-501-0060.

- Included cross references (in new WAC 388-501-0065 and WAC 388-501-0070) to other program WACs where the reader can find more specific detail of the covered or noncovered service.
- Codified the evaluation criteria HRSA will use when evaluating requests for covered services beyond the maximum allowed.

AMENDATORY SECTION (Amending WSR 01-12-070, filed 6/4/01, effective 7/5/01)

WAC 388-501-0050 ((~~Medical and dental~~)) Healthcare general coverage. ((~~All medical and dental services, equipment, and supplies provided to medical assistance administration (MAA) clients are subject to review, before or after payment has been made. MAA may deny or recover reimbursement for such services, equipment, and supplies based on these reviews.~~

~~(1) **Covered services**~~

~~(a) Covered services are:~~

~~(i) Medical and dental services, equipment, and supplies that are within the scope of the eligible client's medical assistance program (see chapter 388-529 WAC) and listed as covered in MAA rules; and~~

~~(ii) Determined to be medically necessary as defined in WAC 388-500-0005 or dentally necessary as defined in WAC 388-535-0150.~~

~~(b) Providers must obtain prior authorization (PA) or expedited prior authorization (EPA) when required by MAA.~~

~~(i) See WAC 388-501-0165 for the PA process.~~

~~(ii) The EPA process is designed to eliminate the need for written and telephonic requests for prior authorization for selected services and procedure codes. MAA requires a provider to create an authorization number for EPA for selected procedure codes, using the process explained in the billing instructions for the specific service or program.~~

~~(iii) See chapter 388-538 WAC for managed care requirements.~~

~~(c) Covered services are subject to the limitations specified by MAA. Providers must obtain PA or EPA before providing services that exceed the specified limit (quantity, frequency or duration). This is known as a limitation extension.~~

~~(i) See WAC 388-501-0165 for the PA process.~~

~~(ii) The EPA process is designed to eliminate the need for written and telephonic requests for prior authorization for selected services and procedure codes. MAA requires a provider to create an authorization number for EPA for selected procedure codes, using the process explained in the billing instructions for the specific service or program.~~

~~(iii) See chapter 388-538 WAC for managed care requirements.~~

~~(d) MAA does not reimburse for covered services, equipment or supplies:~~

~~(i) That are included in a DSHS waivered program; or~~

~~(ii) For a MAA client who is Medicare-eligible if:~~

~~(A) The services, equipment or supplies are covered under Medicare; and~~

~~(B) Medicare has not made a determination on the claim or has not been billed by the provider.~~

~~(2) **Noncovered services**~~

~~(a) MAA does not cover services, equipment or supplies to which any of the following apply:~~

~~(i) The service or equipment is not included as a covered service in the state plan;~~

~~(ii) Federal or state laws or regulations prohibit coverage;~~

~~(iii) The service or equipment is considered experimental or investigational by the Food and Drug Administration or the Health Care Financing Administration; or~~

~~(iv) MAA rules do not list the service or equipment as covered.~~

~~(b) MAA reviews all initial requests for noncovered services based on WAC 388-501-0165.~~

~~(c) If a noncovered service, equipment or supply is prescribed under the EPSDT program, it will be evaluated as a covered service and reviewed for medical necessity~~)) The following rules, WAC 388-501-0050 through WAC 388-501-0065, describe the healthcare services available to a client on a fee-for-service basis or as an enrollee in a managed care organization (MCO)(defined in WAC 388-538-050). Noncovered services are described in WAC 388-501-0070.

(1) Service categories listed in WAC 388-501-0060 do not represent a contract for services.

(2) The client must be eligible for the covered service on the date the service is performed or provided.

(3) The department pays only for medical or dental services, equipment, or supplies that are:

(a) Within the scope of the client's medical program;

(b) Covered - see subsection (5);

(c) Medically necessary;

(d) Ordered or prescribed by a healthcare provider meeting the requirements of chapter 388-502 WAC; and

(e) Furnished by a provider according to the requirements of chapter 388-502 WAC.

(4) The department's fee-for-service program pays only for services furnished by enrolled providers who meet the requirements of chapter 388-502 WAC.

(5) **Covered services**

(a) Covered services are either:

(i) "Federally-mandated" - means the State of Washington is required by federal regulation (42 CFR 440.210 and 220) to cover the service for Medicaid clients; or

(ii) "State-option" - means the State of Washington is not federally-mandated to cover the service but has chosen to do so at its own discretion.

(b) The department may limit the scope, amount, duration, and/or frequency of covered services. Limitation extensions are authorized according to WAC 388-501-0169.

(6) **Noncovered services**

(a) The department does not pay for any service, equipment, or supply:

(i) That federal or state law or regulations prohibit the department from covering;

(ii) Listed as noncovered in WAC 388-501-0070 or in any other program rule. The department evaluates a request for a noncovered service only if an exception to rule is requested according to the provisions in WAC 388-501-0160.

(b) When Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) applies, a noncovered service, equipment, or

supply will be evaluated according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 388-534-0100 for EPSDT rules).

NEW SECTION

WAC 388-501-0060 Healthcare coverage - scope of covered categories of service. (1) This rule provides a list (see subsection (5)) of medical, dental, mental health, and substance abuse categories of service covered by the department under categorically needy (CN) Medicaid, medically needy (MN) Medicaid, Alien Emergency Medical (AEM), and medical care services (MCS) programs. MCS means the limited scope of care financed by state funds and provided to general assistance and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program clients.

(2) Not all categories of service listed in this section are covered under every medical program, nor do they represent a contract for services. Services are subject to the exclusions, limitations, and eligibility requirements contained in department rules.

(3) Services covered under each listed category:

(a) Are determined by the department after considering available evidence relevant to the service or equipment to:

(i) Determine efficacy, effectiveness, and safety;

(ii) Determine impact on health outcomes;

(iii) Identify indications for use;

(iv) Compare alternative technologies; and

(v) Identify sources of credible evidence that use and report evidence-based information.

(b) May require prior authorization (see WAC 388-501-0165), or expedited authorization when allowed by the department.

(c) Are paid for by the department and subject to review both before and after payment is made. The department or the client's managed care organization may deny or recover payment for such services, equipment, and supplies based on these reviews.

(4) The department does not pay for covered services, equipment, or supplies that:

(a) Require prior authorization from the department, if prior authorization was not obtained before the service was provided;

(b) Are provided by providers who are not contracted with the department as required under chapter 388-502 WAC;

(c) Are included in a department waiver program identified in chapter 388-515 WAC; or

(d) Are covered by a third-party payer (see WAC 388-501-0200), including Medicare, if the third-party payer has not made a determination on the claim or has not been billed by the provider.

(5) **Scope of covered service categories.** The following table lists the department's covered categories of healthcare services.

- Under the four program columns (CN, MN, MCS, and AEM), the letter "C" means a service category is covered for that program,

subject to any limitations listed in the specific medical assistance program WAC and department issuances.

- The letter "N" means a service category is not covered under that program.
- The letter "E" means the service category is available only if it is necessary to treat the client's emergency medical condition and may require prior authorization from the department.
- Refer to WAC 388-501-0065 for a description of each service category and for the specific program WAC containing the limitations and exclusions to services.

Service Categories	CN	MN	MCS	AEM
(a) Adult day health	C	C	N	E
(b) Ambulance (ground and air)	C	C	C	E
(c) Blood processing/administration	C	C	C	E
(d) Dental services	C	C	C	E
(e) Detoxification	C	C	C	E
(f) Diagnostic services (lab & x-ray)	C	C	C	E
(g) Family planning services	C	C	C	E
(h) Healthcare professional services	C	C	C	E
(i) Hearing care (audiology/hearing exams/aids)	C	C	C	E
(j) Home health services	C	C	C	E
(k) Hospice services	C	C	N	E
(l) Hospital services - inpatient/outpatient	C	C	C	E
(m) Intermediate care facility/services for mentally retarded	C	C	C	N
(n) Maternity care and delivery services	C	C	N	E
(o) Medical equipment, durable (DME)	C	C	C	E
(p) Medical equipment, nondurable (MSE)	C	C	C	E
(q) Medical nutrition services	C	C	C	E
(r) Mental health services	C	C	C	E
(s) Nursing facility services	C	C	C	E
(t) Organ transplants	C	C	C	N
(u) Out-of-state services	C	C	N	E
(v) Oxygen/respiratory services	C	C	C	E
(w) Personal care services	C	C	N	N
(x) Prescription drugs	C	C	C	E
(y) Private duty nursing	C	C	N	E

(z) Prosthetic/orthotic devices	C	C	C	E
(aa) School medical services	C	C	N	N
(bb) Substance abuse services	C	C	C	N
(cc) Therapy - occupational/physical/speech	C	C	C	E
(dd) Vision care (exams/lenses)	C	C	C	E

NEW SECTION

WAC 388-501-0065 Healthcare coverage - description of covered categories of service. This rule provides a brief description of the medical, dental, mental health, and substance abuse service categories listed in the table in WAC 388-501-0060. The description of services under each category is not intended to be all inclusive.

(1) For categorically needy (CN), medically needy (MN), and medical care services (MCS), refer to the WAC citations listed in the following descriptions for specific details regarding each service category. For Alien Emergency Medical (AEM) services, refer to WAC 388-438-0110.

(2) The following service categories are subject to the exclusions, limitations, and eligibility requirements contained in department rules:

(a) **Adult day health** - Skilled nursing services, counseling, therapy (physical, occupational, speech, or audiology), personal care services, social services, general therapeutic activities, health education, nutritional meals and snacks, supervision, and protection. [WAC 388-71-0702 through WAC 388-71-0776]

(b) **Ambulance** - Emergency medical transportation and ambulance transportation for nonemergency medical needs. [WAC 388-546-0001 through WAC 388-546-4000]

(c) **Blood processing/administration** - Blood and/or blood derivatives, including synthetic factors, plasma expanders, and their administration. [WAC 388-550-1400 and WAC 388-550-1500]

(d) **Dental services** - Diagnosis and treatment of dental problems including emergency treatment. [Chapter 388-535 WAC and Chapter 388-535A WAC]

(e) **Detoxification** - Inpatient treatment performed by a certified detoxification center or in an inpatient hospital setting. [WAC 388-800-0020 through WAC 388-800-0035; and WAC 388-550-1100]

(f) **Diagnostic services** -Clinical testing and imaging services. [WAC 388-531-0100; WAC 388-550-1400 and WAC 388-550-1500]

(g) **Family planning services** -Gynecological exams; contraceptives, drugs, and supplies, including prescriptions; sterilization; screening and treatment of sexually transmitted diseases; and educational services. [WAC 388-532-530]

(h) **Healthcare professional services** - Office visits, emergency room, nursing facility, home-based, and hospital-based care; surgery, anesthesia, pathology, radiology, and laboratory services; obstetric services; kidney dialysis and renal disease services; osteopathic care, podiatry services, physiatry, and pulmonary/respiratory services; and allergen immunotherapy. [Chapter 388-531 WAC]

(i) **Hearing care** - Audiology; diagnostic evaluations; hearing exams and testing; and hearing aids. [WAC 388-544-1200 and WAC 388-544-1300; WAC 388-545-700; and WAC 388-531-0100]

(j) **Home health services** -Intermittent, short-term skilled nursing care, physical therapy, speech therapy, home infusion therapy, and health aide services, provided in the home. [WAC 388-551-2000 through WAC 388-551-3000]

(k) **Hospice services** -Physician services, skilled nursing care, medical social services, counseling services for client and family, drugs, medications (including biologicals), medical equipment and supplies needed for palliative care, home health aide, homemaker, personal care services, medical transportation, respite care, and brief inpatient care. [WAC 388-551-1210]

(l) **Hospital services -inpatient/outpatient** - Emergency room; hospital room and board (includes nursing care); inpatient services, supplies, equipment, and prescription drugs; surgery, anesthesia; diagnostic testing, laboratory work, blood/blood derivatives; radiation and imaging treatment and diagnostic services; and outpatient or day surgery, and obstetrical services. [Chapter 388-550 WAC]

(m) **Intermediate care facility/services for mentally retarded** - Habilitative training, health-related care, supervision, and residential care. [Chapter 388-835 WAC]

(n) **Maternity care and delivery services** - Community health nurse visits, nutrition visits, behavioral health visits, midwife services, maternity and infant case management services, and community health worker visits. [WAC 388-533-0330]

(o) **Medical equipment, durable (DME)** - Wheelchairs, hospital beds, respiratory equipment; prosthetic and orthotic devices; casts, splints, crutches, trusses, and braces. [WAC 388-543-1100]

(p) **Medical equipment, nondurable (MSE)** - Antiseptics, germicides, bandages, dressings, tape, blood monitoring/testing supplies, braces, belts, supporting devices, decubitus care products, ostomy supplies, pregnancy test kits, syringes, needles, transcutaneous electrical nerve stimulators (TENS) supplies, and urological supplies. [WAC 388-543-2800]

(q) **Medical nutrition services** - Enteral and parenteral nutrition, including supplies. [Chapter 388-553 WAC and Chapter 388-554 WAC]

(r) **Mental health services** -Inpatient and outpatient psychiatric services and community mental health services. [Chapter 388-865 WAC]

(s) **Nursing facility services** -Nursing, therapies, dietary, and daily care services. [Chapter 388-97 WAC]

(t) **Organ transplants** - Solid organs, e.g., heart, kidney, liver, lung, pancreas, and small bowel; bone marrow and peripheral

stem cell; skin grafts; and corneal transplants. [WAC 388-550-1900 and WAC 388-550-2000, and WAC 388-556-0400]

(u) **Out-of-state services** - Emergency services; prior authorized care. Services provided in bordering cities are treated as if they were provided in state. [WAC 388-501-0175 and WAC 388-501-0180; WAC 388-531-1100; and WAC 388-556-0500]

(v) **Oxygen/respiratory services** - Oxygen, oxygen equipment and supplies; oxygen and respiratory therapy, equipment, and supplies. [Chapter 388-552 WAC]

(w) **Personal care services** -Assistance with activities of daily living (e.g., bathing, dressing, eating, managing medications) and routine household chores (e.g., meal preparation, housework, essential shopping, transportation to medical services). [WAC 388-106-0010, 0300, 0400, 0500, 0600, 0700, 0720 and 0900]

(x) **Prescription drugs** -Outpatient drugs (including in nursing facilities), both generic and brand name; drug devices and supplies; some over-the-counter drugs; oral, topical, injectable drugs; vaccines, immunizations, and biologicals; and family planning drugs, devices, and supplies. [WAC 388-530-1100]

(y) **Private duty nursing** -Continuous skilled nursing services provided in the home, including client assessment, administration of treatment, and monitoring of medical equipment and client care. [WAC 388-551-3000]

(z) **Prosthetic/orthotic devices** - Artificial limbs and other external body parts; devices that prevent, support, or correct a physical deformity or malfunction. [WAC 388-543-1100]

(aa) **School medical services** -Medical services provided in schools to children with disabilities under the Individuals with Disabilities Education Act (IDEA). [Chapter 388-537 WAC]

(bb) **Substance abuse services** -Chemical dependency assessment, case management services, and treatment services. [WAC 388-533-0701 through WAC 388-533-0730; WAC 388-556-0100 and WAC 388-556-0400; and WAC 388-800-0020]

(cc) **Therapy -occupational/physical/speech** - Evaluations, assessments, and treatment. [WAC 388-545-300, WAC 388-545-500, and WAC 388-545-700]

(dd) **Vision care** - Eye exams, refractions, frames, lenses, ocular prosthetics, and nonelective surgery. [WAC 388-544-0250 through WAC 388-544-0550]

NEW SECTION

WAC 388-501-0070 Healthcare coverage - noncovered services. (1) The department does not pay for any service, treatment, equipment, drug or supply not listed or referred to as a covered service in WAC 388-501-0060, regardless of medical necessity. Clients are responsible for payment of noncovered services as described in WAC 388-502-0160.

(2) This section does not apply to services provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)

program as described in chapter 388-534 WAC.

(3) The department does not pay for any ancillary service(s) provided in association with a noncovered service.

(4) The following list of noncovered services is not intended to be exhaustive. Noncovered services include, but are not limited to:

(a) Any service specifically excluded by federal or state law;

(b) Any service, treatment, equipment, drug, or supply requiring prior authorization from the department, if prior authorization was not obtained before the service was provided;

(c) Acupuncture, Christian Science practice, faith healing, herbal therapy, homeopathy, massage, massage therapy, naturopathy, and sanipractice;

(d) Chiropractic care for adults;

(e) Cosmetic, reconstructive, or plastic surgery, and any related services and supplies, not specifically allowed under WAC 388-531-0100(4).

(f) Ear or other body piercing;

(g) Face lifts or other facial cosmetic enhancements;

(h) Gender reassignment surgery and any surgery related to transsexualism, gender identity disorders, and body dysmorphism, and related services, supplies, or procedures, including construction of internal or external genitalia, breast augmentation, or mammoplasty;

(i) Hair transplants, epilation (hair removal), and electrolysis;

(j) Fertility, infertility or sexual dysfunction testing, care, drugs, and treatment including but not limited to:

(i) Artificial insemination;

(ii) Donor ovum, sperm, or surrogate womb;

(iii) In vitro fertilization;

(iv) Penile implants;

(v) Reversal of sterilization; and

(vi) Sex therapy.

(k) Marital counseling;

(l) Motion analysis, athletic training evaluation, work hardening condition, high altitude simulation test, and health and behavior assessment;

(m) Nonmedical equipment;

(n) Penile implants;

(o) Prosthetic testicles;

(p) Psychiatric sleep therapy;

(q) Subcutaneous injection filling;

(r) Tattoo removal;

(s) Transport of Involuntary Treatment ACT (ITA) clients to or from out-of-state treatment facilities, including those in bordering cities; and

(t) Vehicle purchase - new or used vehicle.

(5) For a specific listing of noncovered services in the following service categories, refer to the accompanying WAC citation:

(a) Ambulance transportation as described in WAC 388-546-0250;

(b) Dental services (for clients twenty-one years of age and younger) as described in Chapter 388-535 WAC;

(c) Dental services (for clients twenty-one years of age and older) as described in Chapter 388-535 WAC;

(d) Durable medical equipment as described in WAC 388-543-1300;
(e) Hearing care services as described in WAC 388-544-1400;
(f) Home health services as described in WAC 388-551-2130;
(g) Hospital services as described in WAC 388-550-1600;
(h) Physician-related services as described in WAC 388-531-0150;
(i) Prescription drugs as described in WAC 388-530-1150; and
(j) Vision care services as described in WAC 388-544-0475.

AMENDATORY SECTION (Amending WSR 00-03-035, filed 1/12/00, effective 2/12/00)

WAC 388-501-0160 Exception to rule--Request for a noncovered ((~~medical or dental~~)) healthcare service((~~, or related equipment~~)). A client and/or ((~~their~~)) the client's provider may request ((~~prior authorization for MAA~~)) the department to pay for a noncovered ((~~medical or dental~~)) healthcare service((~~, or related equipment~~)). This is called an exception to rule.

(1) ((~~MAA~~)) The department cannot approve an exception to rule if the ((~~exception violates~~)) requested service is excluded under state ((~~or federal law or federal regulation~~)) statute.

(2) The item or service(s) for which an exception is requested must be of a type and nature which falls within accepted standards and precepts of good medical practice;

(3) All exception requests must represent cost-effective utilization of medical assistance program funds as determined by the department;

(4) A request for an exception to rule must be submitted to the department in writing within ninety days of the date of the written notification denying authorization for the noncovered service. For ((~~MAA~~)) the department to consider the exception to rule request((~~,~~)):

(a) The client and/or the client's healthcare provider must submit sufficient client-specific information and documentation ((~~must be submitted for the MAA~~)) to Health and Recovery Services Administration's medical director or designee ((~~to determine if:~~

~~(a)~~)) which demonstrate the client's clinical condition is so different from the majority that there is no equally effective, less costly covered service or equipment that meets the client's need(s)((~~, and~~))

(b) ((~~The requested service or equipment will result in lower overall costs of care for the client~~)) The client's healthcare professional must certify that medical treatment or items of service which are covered under the client's medical assistance program and which, under accepted standards of medical practice, are indicated as appropriate for the treatment of the illness or condition, have been found to be:

(i) Medically ineffective in the treatment of the client's condition; or

(ii) Inappropriate for that specific client.

((~~(3) The MAA medical director or designee evaluates and~~

~~considers requests on a case-by-case basis according to the information and documentation submitted from the provider.~~

~~(4) Within fifteen working days of MAA's receipt of the request, MAA notifies the provider and the client, in writing, of MAA's decision to grant or deny the exception to rule~~)) (5) Within fifteen business days of receiving the request, the department sends written notification to the provider and the client:

(a) Approving the exception to rule request;

(b) Denying the exception to rule request; or

(c) Requesting additional information.

(i) The additional information must be received by the department within thirty days of the date the information was requested.

(ii) The department approves or denies the exception to rule request within five business days of receiving the additional information.

(iii) If the requested information is insufficient or not provided within thirty days, the department denies the exception to rule request.

(6) The HRSA medical director or designee evaluates and considers requests on a case-by-case basis. The HRSA medical director has final authority or approve or deny a request for exception to rule.

((~~(5)~~)) (7) Clients do not have a right to a fair hearing on exception to rule decisions.

NEW SECTION

WAC 388-501-0169 Healthcare coverage - limitation extension. This section addresses requests for limitation extensions (additional covered services when a client has received the maximum services allowed under specific healthcare program rules). The department does not pay for services exceeding the maximum allowed until authorization is obtained.

(1) No extension of covered services will be authorized when prohibited by specific program rules.

(2) When an extension is not prohibited by specific program rules, a client or the client's provider may request a limitation extension.

(3) Under fee-for-service (FFS), the department evaluates requests for limitation extensions using the process described in WAC 388-501-0165. For a managed care enrollee, the client's managed care organization (MCO) evaluates requests for limitation extensions according to the MCO's prior authorization process.

(4) In addition to subsection (3), both the department and MCO consider the following in evaluating a request for a limitation extension:

(a) The level of improvement the client has shown to date related to the requested service and the probability of continued improvement if the requested service is extended; and

(b) The probability the client's condition will worsen if the requested service is not extended.

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

WAC 388-531-0100 Scope of coverage for physician-related services--General and administrative. (1) The ((~~medical assistance administration (MAA)~~)) department covers medical services, equipment, and supplies when they are ((~~both~~)):

(a) Within the scope of an eligible client's medical ((~~care~~)) assistance program. Refer to ((~~chapter 388-529~~)) WAC 388-501-0060 and WAC 388-501-0065; and

(b) Medically necessary as defined in 388-500-0005.

(2) ((~~MAA evaluates a request for any service that is listed as noncovered in WAC 388-531-0150 under the provisions of WAC 388-501-0165.~~

~~(3) MAA~~)) The department evaluates a request for a service that is in a covered category ((~~, but has been determined to be experimental or investigational under WAC 388-531-0550,~~)) under the provisions of WAC 388-501-0165 ((~~which related to medical necessity~~)).

((~~(4) MAA~~)) (3) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions ((~~when medically necessary, under the standards for covered services in WAC 388-501-0165~~)) as described in WAC 388-501-0169.

((~~(5) MAA~~)) (4) The department covers the following physician-related services, subject to the conditions in subsections (1), (2), and (3)((~~, and (4)~~)) of this section:

(a) Allergen immunotherapy services;

(b) Anesthesia services;

(c) Dialysis and end stage renal disease services (refer to chapter 388-540 WAC);

(d) Emergency physician services;

(e) ENT (ear, nose, and throat) related services;

(f) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 388-534-0100);

(g) ((~~Gender dysphoria surgery and related procedures, treatment, prosthetics, or supplies when recommended after a multidisciplinary evaluation including at least urology, endocrinology, and psychiatry;~~

~~(h)~~)) Family planning services (refer to chapter 388-532 WAC);

((~~(i)~~)) (h) Hospital inpatient services (refer to chapter 388-550 WAC);

((~~(j)~~)) (i) Maternity care, delivery, and newborn care services (refer to chapter 388-533 WAC);

((~~(k)~~)) (j) Office visits;

((~~(l)~~)) (k) Vision-related services, ((~~per~~)) refer to chapter 388-544 WAC;

((~~(m)~~)) (l) Osteopathic treatment services;

((~~(n)~~)) (m) Pathology and laboratory services;

((~~(o)~~)) (n) Physiatry and other rehabilitation services (refer to chapter 388-550 WAC);

((~~(p)~~)) (o) Podiatry services;
((~~(q)~~)) (p) Primary care services;
((~~(r)~~)) (q) Psychiatric services, provided by a psychiatrist;
((~~(s)~~)) (r) Pulmonary and respiratory services;
((~~(t)~~)) (s) Radiology services;
((~~(u)~~)) (t) Surgical services;
((~~(v) Surgery~~)) (u) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects from birth, illness, or physical trauma, or for mastectomy reconstruction for post cancer treatment; and
((~~(w)~~)) (v) Other outpatient physician services.

((~~(6) MAA~~)) (5) The department covers physical examinations for ((~~MAA~~)) medical assistance clients only when the physical examination is one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 388-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

((~~(7)~~)) (6) By providing covered services to a client eligible for a medical ((~~care~~)) assistance program, a provider who has signed an agreement with ((~~MAA~~)) the department accepts ((~~MAA's~~)) the department's rules and fees as outlined in the agreement, which includes federal and state law and regulations, billing instructions, and ((~~MAA~~)) department issuances.